

Docket No.: 44033-080



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

J. Peter KLEIN, et al.

Application No.: 09/288,556

Filed: April 09, 1999

Group Art Unit: 1624

Examiner: R. Raymond

For: THERAPEUTIC COMPOUNDS FOR INHIBITING INTERLEUKIN-12 SIGNALING
AND METHODS FOR USING SAME

**RESPONSE TO REQUIREMENT FOR AN
ELECTION OF SPECIES**

Commissioner for Patents
Washington, DC 20231

Sir:

This is in response to the Office Action dated April 22, 2002. The Examiner has required a further election of species. Requirement in the Office Action Summary indicates that the Requirement is responsive to a communication filed on March 11, 2002. Under instructions from the undersigned, the undersign's legal assistant telephoned the Examiner to question the accuracy of the data because the undersigned had not been filed any communication in this case on the aforesaid date. The Examiner informed the legal assistant that the March 11, 2002 date represents the date on which the response to the first Election/Restriction Requirement filed September 6, 2001 was received in the Examining Group.

The present application is a CPA under 37 CFR § 1.53(b) of Application No. 09/288,556. The Examiner made an election of species requirement in the CPA application on August 7, 2001. In a response filed September 6, 2001, Applicants reiterated their original election of the

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compounds of Formula I in claim 1 wherein x and y are "N" and z is "C" and the compounds defined in claim 21. However, the Examiner has determined that the original election was too broad. The Examiner is now requiring a further election between xanthine compounds and the diverse complex substituted derivatives of these compounds. In order to comply with the Examiner's latest election of species requirement, Applicants elect a compound where X is N, Y is N, Z is C(R₃), R₁ is C₍₅₋₉₎ hydroxyalkyl, and R₂ is CH₃.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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